IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

UNITED STATES OF AMERICA

v. CRIMINAL NO. 1:92-00242

JEFFREY M. WHITEHEAD

MEMORANDUM OPINION AND ORDER

Pending before the court is defendant's "motion for modification or remission of fine." For the reasons discussed below, that motion is DENIED.

18 U.S.C. § 3573 permits a court, upon motion of the government, to remit all or part of an unpaid fine. The statute does not, however, permit a court to remit a fine upon motion of the defendant. See United States v. Benally, 2009 WL 1286014, *1 (D. Ariz. 2009); Manjarres v. United States, 2008 WL 842415 (D.R.I. 2008); United States v. Jupiter, 2001 WL 34790221, *1 (W.D. Va. 2001). As such, the motion to remit must be denied.

18 U.S.C. § 3572(d)(3) provides that

> A judgment for a fine which permits payments in installments shall include a requirement that the defendant will notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay the fine. Upon receipt of such notice the court may, on its own motion or the motion of any party, adjust the payment schedule, or require immediate payment in full, as the interests of justice require.

Section 3572 does not allow a court to reduce the amount of a fine, only to modify the amount and schedule of the payments. Defendant is currently repaying his fine in monthly installments

of $100. Given the amount remaining to be paid, on the fine this seems to be a reasonable repayment schedule. Accordingly, the court declines to modify defendant's repayment schedule.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of defendant, the government, and the Probation Office of this court.

IT IS SO ORDERED this 24th day of August, 2009.

ENTER:

David A. Faber
Senior United States District Judge